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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/059,294	01/31/2002	Hisaaki Oguri	00862.003013.1	8681
5514	7590	11/03/2004	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO			BROWN, KHALED	
30 ROCKEFELLER PLAZA			ART UNIT	
NEW YORK, NY 10112			PAPER NUMBER	
			2877	

DATE MAILED: 11/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/059,294

Applicant(s)

OGURI ET AL.

Examiner

Khaled Brown

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 37-59 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 37-59 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☒ Certified copies of the priority documents have been received in Application No. 09/388,372.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fujioka et al (US 5593800) in view of Klotz, Jr et al (US 5651044).

Re clm 37: Fujioka et al discloses an electrostatic sensor comprising: a plurality of detection sections (Fujioka et al 631, 632), and a device arranged to select at least one detection section from the plurality of detection sections (Fujioka et al 15) and to calculate a position of an object surface (wafer/substrate 4) based upon an output of the selected detection section (Fujioka et al Col 8 lines 33-36). However, Fujioka et al does not disclose selecting the detection section based on information of a region of an object surface to be detected. Klotz, Jr et al teaches that an electrostatic sensor should select a detection section based on information of a region of an object surface to be detected because it increases accuracy (Klotz, Jr et al Col 4 lines 20-36). Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to select a detection section based on information of a region of an object surface to be detected in the invention of Fujioka et al because it would increase accuracy as taught by Klotz, Jr et al.

Claims 38-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kamieniecki et al (5661408) in view of Klotz, Jr et al (US 5651044).

Re clm 38: Kamieniecki et al discloses an electrostatic sensor having a plurality of detection sections (Kamieniecki et al 208), and a device/controller arranged to select at least one detection section from the plurality of detection sections and to calculate a position/height of an object/substrate surface based upon an output of the selected detection section (Kamieniecki et al Col 6 lines 1-53). However, Kamieniecki et al does not disclose selecting the detection section based on information of a region of an object surface to be detected. Klotz, Jr et al teaches that an electrostatic sensor should select a detection section based on information of a region of an object surface to be detected because it increases accuracy (Klotz, Jr et al Col 4 lines 20-36). Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to select a detection section based on information of a region of an object surface to be detected in the invention of Kamieniecki et al because it would increase accuracy as taught by Klotz, Jr et al.

Re clms 39, 41: based on a dimension or arrangement (Klotz, Jr et al Col 4 lines 25-29)

Re clm 40: based on a position (Klotz, Jr et al Col 4 lines 30-36)

Claims 42-59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kamieniecki et al (US 5661408) in view of Klotz, Jr et al (US 5651044) as applied to claims 38-41 above, and further in view of Fujioka et al (US 5593800).

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Re clms 42, 47, 52, 57: The combination system of Kamieniecki et al and Klotz, Jr et al discloses the claimed invention as noted above including an electrostatic sensor.

However the combination system of Kamieniecki et al and Klotz, Jr et al does not disclose a device manufacturing method comprising the steps of: exposing and developing a substrate using a lithography system. Fujioka et al teaches a device manufacturing method comprising the steps of: exposing and developing a substrate using a lithography system because they are the necessary steps in the production of semiconductor devices (Fujioka et al Col 20 lines 53-56). Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to use the combination system of Kamieniecki et al and Klotz, Jr et al to implement a device manufacturing method comprising the steps of: exposing and developing a substrate using a lithography system because they were the necessary steps in the production of semiconductor devices as taught by Fujioka et al.

Re clms 43, 48, 53,58,59: The combination system of Kamieniecki et al and Klotz, Jr et al discloses the claimed invention as noted above. However the combination system of Kamieniecki et al and Klotz, Jr et al does not disclose a plurality of electrostatic sensors. Fujioka et al discloses using a plurality of electrostatic sensors because it allows inclination to be measured (Fujioka et al 631, 632). Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to use in the combination system of Kamieniecki et al and Klotz, Jr et al a plurality of

electrostatic sensors because it would allow inclination to be measured as taught by Fujioka et al.

Re clms 44, 46,49,51,54,56: based on a dimension or arrangement (Klotz, Jr et al Col 4 lines 25-29)

Re clms 45,50,55: based on a position (Klotz, Jr et al Col 4 lines 30-36)

Re clms 47, 52, 57: exposing and developing a substrate (Fujioka et al Col 20 lines 53-56).

### ***Response to Arguments***

Applicant's arguments with respect to claims 37-59 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

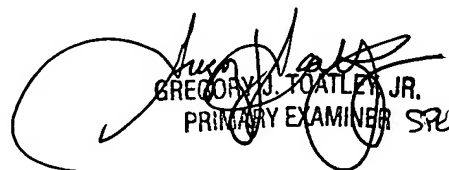
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khaled Brown whose telephone number is 571-272-2411. The examiner can normally be reached on M-F 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory J Toatley Jr. can be reached on 571-272-2800 Ext. 77. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KB

November 1, 2004

  
GREGORY J. TOATLEY JR.  
PRIMARY EXAMINER SEP 28 2004